

## FACT SHEET

### **Americans with Disabilities Act - Title III exemptions for religious entities** (Public Law 101-336)

The Americans with Disabilities Act (ADA) exempts private clubs and religious entities from the majority of its requirements. This fact sheet provides technical assistance concerning the exemptions relating to religious entities. It is not intended to serve as a legal interpretation. Information contained in this fact sheet was obtained from documents published by the U.S. Department of Justice.

#### **What is a "religious entity?"**

The term "religious entity" is defined in section 307 of the ADA as a religious organization or entity controlled by a religious organization, including a place of worship. The ADA's exemption of religious organizations is very broad, encompassing a variety of situations. Religious organizations, and entities controlled by religious organizations, have no obligations under Title III of the ADA. Even when a religious organization carries out activities that would otherwise make it a public accommodation, it's exempted from Title III's coverage.

**EXAMPLE:** If a church operates a day care center, nursing home, private school, or diocesan school system, those operations are not subject to the requirements of the ADA Title III.

It does not matter whether or not the individuals receiving the services of the public accommodation (e.g., day care center, nursing home, etc.) are limited to members of the church or open to the public. The test is whether the church or other religious organization operates the public accommodation, not which individuals receive services.

Religious entities that are controlled by religious organizations are also exempt from the ADA's requirements, even if not directly run by the church. The use of a lay board and other secular or corporate mechanism to operate a school, day care center, etc., does not itself remove the ADA's religious exemptions.

**EXAMPLE:** A parochial school having religious doctrine in its curriculum and sponsored by a religious order would be exempt either as a religious organization or as an entity controlled by a religious organization, even if it has a lay board.

The test is whether the church or other religious organization controls the operations of the school or the service or whether the school or service is itself a religious organization.

### **What about public accommodations which rent space from a religious organization?**

A public accommodation which is not itself a religious organization, but that operates a place of public accommodation in leased space on the property of a religious entity, is not exempt from Title III requirements if it is not under the control of a religious organization. The religious organization, however, remains exempt from Title III requirements, even as the landlord.

EXAMPLE: A church rents meeting space (which is not a place of worship) to a local community group or to a private independent day care center. Title III requirements apply to the activities of the local community group and day care center if a lease exists and consideration is paid. The church remains exempt.

The exemption covers the situation where a religious organization donates space to another entity, such as a local civic organization. The non-religious entity is subject to Title III requirements only if a lease exists under which rent or consideration is paid.

EXAMPLE: A church donates meeting space (which is not a place of worship) to a local community group or to a private independent day care center. Both the local group and the church are exempt from Title III requirements if there is no lease, and rent is not required.

### **How are religious organizations affected under Title I of the ADA?**

Title I of the ADA covers employers with 15 or more employees in terms of their employment practices. The exemption for religious entities only applies under Title III of the ADA (Public Accommodations) and not Title I (Employment Practices). Religious organizations may establish religious preferences in their employment practices, but may not discriminate on the basis of disability.

<b>DISABILITY AND COMMUNICATION ACCESS BOARD</b>		
<b>Oahu:</b>	<b>586-8121</b>	<b>(Voice/TDD)</b>
	<b>586-8129</b>	<b>(FAX)</b>
<b>Maui:</b>	<b>984-8219</b>	<b>(Voice/TDD)</b>
<b>Kauai:</b>	<b>274-3308</b>	<b>(Voice/TDD)</b>

**Big Island:**

**322-4841**

**(Voice Mail)**

ADA-13

January 2000

© *State of Hawaii, Disability and Communication Access Board*